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ABSTRACT

The Kentucky Education Reform Act (KERA) was passed in 1990 as a result of a Kentucky Supreme Court order to establish an efficient and equitable system of public education. This report is a guide to the implementation of school-based decision making, which is the most immediate of the reform initiatives being implemented. A review of the role of the board of education is followed by an overview of the school council. The statute that established school-based decision-making and frames the organization and operation of the school council is detailed. It addresses three main topics: (1) the formation of the school council; (2) the functions of the school council; and (3) the policy making responsibility of the school board of education. The next section summarizes the law in 11 areas important to the implementation of school-based decision-making. It offers a practical and legally sound interpretation of the law that gives guidance in resolving "who does what" when the law does not clearly delineate. These areas include curriculum, assignment of instructional and noninstructional staff time, determination of the school schedule, instructional practices, and discipline. Answers to commonly asked questions conclude the document. Two appendixes contain: (1) an education coalition statement on school-based decision-making; and (2) the full text of cited statutes. (RR)

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REACHING NEW HEIGHTS

A Guide to the Implementation of School-Based Decision Making Under the Kentucky Education Reform Act

Elizabeth Harvey, J.D.

KENTUCKY SCHOOL BOARDS ASSOCIATION

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GENERAL INTRODUCTION

With the passage of the Kentucky Education Reform Act (KERA) in the 1990 General Assembly, Kentucky became the nation's laboratory for educational reform. It was the culmination of bold leadership by the General Assembly and Kentucky's judiciary, and the final step in a long struggle waged by courageous boards of education and administrators from Kentucky's economically deprived school districts to gain recognition of the disparity in educational opportunity for Kentucky's public school children. In the landmark case of *Rose v. Council for Better Education, Inc., Ky., 790 S.W.2d 186 (1989),* the Kentucky Supreme Court declared that the Commonwealth did not have an efficient system of public common schools as required by Section 183 of the Kentucky Constitution. The General Assembly was ordered to establish an efficient and equitable system of public education.

The Kentucky Education Reform Act embodies many educational initiatives designed to improve student achievement and to address the total development of all children. Ungraded primaries, family resource centers and school-based decision making are three examples of these promising reform initiatives. School-based decision making is the most immediate of the reform initiatives being implemented in school districts of the Commonwealth. Under law, the faculty of a school could elect school-based decision making as early as July 13, 1990. By June 30, 1991, each district will have at least one school operating under school-based decision making, with the exception of those districts having only one school.

With the advent of school-based decision making, questions about legal and policy interpretation have arisen, as is to be expected with the implementation of a complex legal document such as KERA. The nature of law is that it rarely gives perfect guidance for the complex questions that arise from actual experience. The positive side of this imperfect guidance is the flexibility that the law affords districts to implement what works best for the district and its schools. In response to a continuing need for answers to fundamental questions about the implementation of school-based decision making, KSBA has compiled this monograph of legal and policy guidelines. It is the result of a diligent study of the law, a wide search of practices which contribute to successful school-based decision making and discussions across the state with educators, board and council members, leaders of educational interest groups and many others. It does not represent a consensus on all matters presented, but is intended to offer a beginning point for dialogue on questions of importance to the success of KERA.

Success will ultimately be measured in what we offer to the school children we serve. With this as the goal, with the eyes of the nation upon us, there has never been a more important time for Kentucky's educational leaders and professionals to reach for the highest standards in performance and selfless leadership, judging the motivation and result of all that we do by what benefits the children of Kentucky.

THE BOARD OF EDUCATION

The foundation of local leadership of public education is in the nation's earliest beginnings when citizen involvement through the town meeting and other forms of representative government were the mainstay of American government. The education of children was one of the most vital functions of local government—there government touched each family in a personal way. Education was so important that a separate entity—the board of education—was established for the exclusive purpose of overseeing the schools of the community.

Today, the board of education continues to be the link between the community and education. Even though state and federal governments have become involved in the financing and regulation of local schools, citizen taxpayers and parents value local management and participation in the community's education which so significantly affects the families and the future of the community. Distant and unnamed bureaucrats have not been the American choice for administrators of public education. The Education Commission of the States reported this common theme from such blue ribbon studies as: A Nation at Risk, The Paideia Proposal, A Place Called School, and others:

> Most underscore the belief that the strength of our education system lies in its decentralized structure and control by individual communities; communities will differ in their approaches to renewal [of education] and those differences will guarantee innovation, creativity and imaginative solutions to our problems.[1]

The Kentucky General Assembly has made community governance a part of public education through the board of education which is elected by the citizens of the district and charged with the management of the school district. The law is primarily embodied in two statutes which define the comprehensive role of boards of education, pertinent portions of which follow:

> Each school district shall be under the management and control of a board of education. . . . and may do all things necessary to accomplish the purposes for which it is created. Kentucky Revised Statutes (KRS) 160.160(1).
>
> Each board of education shall have general control and management of the public schools in its district and may establish schools and provide for courses and other services as it deems necessary

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[1] *A Summary of Major Reports on Education, Education Commission of the States, November 1983, page 2.*

for the promotion of education and the general health and welfare of pupils, consistent with the administrative regulations of the State Board for Elementary and Secondary Education. KRS 160.290(1).

(For the entire text of the above statutes, please see Appendix 2, pages 55-56.)

The board of education not only provides oversight of the public schools in the district but offers representation to all taxpayers of the district, many of whom are not parents of children directly benefitting from the district's public education system. As the cost of public education increases the tax burden of the citizenry, accountability to the public becomes increasingly more important. It is through the board of education that the public exacts accountability and retains ultimate authority over the community's most important governmental function.

THE SCHOOL COUNCIL

The school council is the policy making body at the school site for school-based decision making. School-based decision making has origins in a successful industrial management model which promotes the sharing of responsibility and accountability among personnel, giving employees decision making responsibility within their sphere of knowledge and influence. The philosophy behind school-based decision making is that decisions about the instructional program and environment of the school are accomplished best by those at the school site who are most familiar with the students, their needs, and the school's "personality." The guiding purpose of the school council in the Kentucky Education Reform Act is to provide "an environment to enhance the students' achievement and help the school meet the goals" of KERA. KRS 160.345(2)(c).

School-based decision making in Kentucky is an extension of a national movement to restructure schools with the objectives of opening schools to greater participation by parents, reducing outside regulation that can stifle innovation and creativity in instruction and programming, and increasing accountability for the quality of classroom instruction. The concept recognizes the potential force for excellence created when capable teachers combine with dedicated parents. It holds the promise that student achievement will be improved as a result. Indeed, no other state has mandated by law the full participation in school-based decision making that KERA requires.

KRS 160.345 is the statute which establishes school-based decision making and frames the organization and operation of the school council. The statute addresses three (3) main topics:

I. The Formation of the School Council
II. Functions of the School Council
III. The Policy Making Responsibility of the Board of Education

OVERVIEW OF KRS 160.345

I. The Formation of the School Council

School-based decision making is initiated in a school when two-thirds of the faculty vote in favor of it. By June 30, 1991, each district will have at least one school which will be implementing school-based decision making the following year, with the exception of districts with only one school. By July 1, 1996, all schools are to implement school-based decision making, except those schools performing above their required improvement level, if approved by a majority of the faculty and the State Board for Elementary and Secondary Education. KRS 160.345(5).

Teacher representatives to the school council are elected for one year terms by a majority of the teachers. "Teacher" is defined as any person for whom certification is required with the exception of principals, assistant principals and head teachers. KRS 160.345(1). Parent representatives are elected for one year terms from the largest existing parent organization of the school or one formed for the purpose of this election. KRS 160.345(2)(b). Parent representatives to the council are not to be relatives of any employee of the school. KRS 160.345(2)(a). The principal or head teacher is the chair of the school council. KRS 160.345(2)(b).

The model for the school council consists of two parents, three teachers and the principal or administrator. The membership of the council may be increased if each representative group is increased in equal proportions. KRS 160.345(2)(a). The statute does not state that such an increase must be approved by the State Board for Elementary and Secondary Education, and thus appears to be within the discretion of the council itself or occurs under procedures enacted in local board policy related to the formation of school councils. KRS 160.345(2)(e).

An alternative to the model must be developed with participation by parents, students, certified personnel and the administrators of the school. It must have the approval of two-thirds of the faculty of the school and must be submitted for approval to the State Board for Elementary and Secondary Education. KRS 160.345(7).

All certified staff of a school may participate in school-based decision making by dividing into committees according to their areas of interest. Each committee is to select a committee chair who is elected by a majority of the committee and will serve for a one year term. KRS 160.345(2)(d).

II. Functions of the School Council

The purpose of the school council is to enact school policy to provide an environment "to enhance the students' achievement and help the school meet the goals established" by the Kentucky Education Reform Act. The council is a policy making body which adopts policies to be implemented by the principal or head teacher. KRS 160.345(2)(j). The principal or head teacher serves as the primary administrator and instructional leader of the school and with the assistance of the total school staff, administers the policies established by the school council and the local board. KRS 160.345(2)(c).

The school council determines the frequency of and agenda for its meetings which are open to the public and governed by the open meetings law. KRS 160.345(2)(e).

The council determines the number of persons to be employed in each job classification at the school, within the total available funds. The council may make personnel decisions on vacancies that occur after the council is formed, but does not have the authority to recommend transfers or dismissals. The principal is responsible for the selection of individuals for vacant positions in the school, after consultation with the school council. If the position of principal is vacant, the school council selects the new principal. In the selection of employees to fill vacant positions, the principal and the council consider applicants recommended by the superintendent. KRS 160.345(2)(g)-(i).

The school council determines which instructional materials and student support services are to be provided in the school. KRS 160.345(2)(h). In addition, the school council adopts a policy to be implemented by the principal in the following areas:

* *Determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal within the local school board's policy;*

* *Assignment of all instructional and noninstructional staff time;*

* *Assignment of students to classes and programs within the school;*

* *Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;*

* *Determination of use of school space during the school day;*

* *Planning and resolution of issues regarding instructional practices;*

* *Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal; and*

* *Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision. KRS 160.345(2)(j)1-8.*

III. The Policy Making Responsibility of the Board of Education

By January 1, 1991, each board of education was to have adopted policies for implementing school-based decision making in the district, including amending existing policies as necessary to allow professional staff members of a school to be involved in the decision making process of the school. KRS 160.345(2). Matters related to the formation of school councils not addressed by statute may be addressed by local board policy. KRS 160.345(2)(e). In addition, the board of education is to adopt policy to implement school-based decision making which addresses the following areas:

* *School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and accounting and auditing;*

* *Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;*

* *School improvement plans, including the form and function of strategic planning and its relationship to district planning;*

* *Professional development plans developed pursuant to KRS 156.095 and 156.0951;*

* *Parent, citizen, and community participation, including the relationship of the council with other groups;*

* *Cooperation and collaboration within the district, with other districts, and with other public and private agencies;*

* *Requirements for waiver of district policies;*

* *Requirements for record keeping by the school council; and*

* *A process for appealing a decision made by a school council. KRS 160.345(3)(a)-(i).*

POLICY MAKING AUTHORITY OF THE BOARD OF EDUCATION AND SCHOOL COUNCIL

The blending of school-based decision making into the existing structure of Kentucky's school districts offers the potential for a positive addition to the school district structure. Many districts have long been practicing degrees of site-based or participatory decision making. KERA formalizes the concept of shared decision making and enfranchises parents in the process of school governance.

In general, the board of education and the school council exercise their authority by adopting policy. Policies must comply with federal and state law and state regulations. The authority of the board of education is broad in scope and encompasses all matters within the district. The school council's authority is narrower in scope and encompasses the instructional program and learning environment of the school. The council may be granted a waiver, with some exceptions, from regulations of the State Board under KRS 156.160(2).

The school council has policy making authority in eight specified areas and has responsibility in other denoted areas such as personnel and the determination of instructional materials and student support services, KRS 160.345(2), all of which are key to the educational strength of the school. In addition, the board of education may grant to the school council any other authority permitted by law. KRS 160.345(4).

In practice, boards of education have rarely been involved in the details of a school's instructional program or how a school creates a learning environment. Rather, boards of education have been involved with district-wide issues of strategic planning, policy to reflect community values and goals, and management and finance, such as budgeting, contractual negotiations and capital construction. Now the board of education develops the broad policy framework for the implementation of school-based decision making, adopting policy on matters such as budget and administration, assessment and reporting of individual student progress and school improvement plans. KRS 160.345(3). It is to amend district policies where necessary to allow professional staff members of a school to be involved in the decision making process. KRS 160.345(2). In the event that a council's policy and the board's policy are not harmonious or the council wishes to act outside of board policy, the council may request a waiver of board policy. KRS 160.345(3)(g). Thus the board's policy framework is to be facilitative and permissive toward school-based decision making.

The addition of school-based decision making to the governance structure of the school district has not eliminated the concept of a school district under the oversight of a board of education. In fact, it has strengthened that concept by decentralizing the process of decision making and inviting diversity of programming within the district, thus enabling a local board to focus on broader and more strategic objectives and policies. Ideally, the relationship between the board of education and the school council would be a harmonious one, each working together and within its sphere to promote student learning, striving toward school and district goals mutually determined and supported by all.

BOARD OVERSIGHT OF THE DISTRICT

One of the most often asked questions about the implementation of school-based decision making as it has developed in Kentucky, is whether the plans, policies or actions of the school council are subject to the review of the board of education. The preliminary limitation on both board and council actions is Section 2 of the Kentucky Constitution which prohibits arbitrary action by any governmental entity. The statutory authority of the board of education is broad, but the management practices of the board of education must be consistent with the intent of KERA to delegate decision making for the school to parents and educational professionals. The position of KSBA is that board review of council plans, policies, or actions should be practiced for limited reasons.

There are four points at which the board of education might exercise oversight of a school council:

1. school council plans;
2. appeals of council action;
3. policies of a school council; and
4. failure of a school to meet the required threshold improvement level.

Review of School Council Plans by the Board of Education

Boards of education are directed by statute to develop policy for the implementation of school-based decision making on ["s]chool improvement plans, including the form and function of strategic planning and its relationship to district planning." KRS 160.345(3)(c). The substance of this policy is not detailed in statute.

KSBA has recommended policy for boards of education which envisions that each council will submit an annual plan for the school to the board of education. Included in the plan will be the council's goals and objectives and the process for achieving and evaluating them. At the end of each year, the council will submit its annual evaluation report to the board.

KSBA recommends that review of council plans be limited to consideration of whether the plan:

(1) is in compliance with federal and state law and regulation;
(2) unreasonably endangers the health and safety of students or staff;
(3) exposes the school or district to an unacceptable level of liability;
(4) is within the financial resources of the district to reasonably support;
(5) complies with contractual obligations to personnel and other providers of goods and services;

(6) is within the authority delegated to the council by the board within the statutes; and
(7) has basic educational merit.[2]

It is not recommended that boards of education review school improvement plans based on diversity of programming, because KERA envisions that there will be diversity of programming within a district. Deference should be given to the council's judgement in what is educationally sound for the school and its students.

Several points related to the council's plan for the school are important. Presentation of the plan to the board and to the public increases the importance of the plan and encourages the council to thoughtfully consider where it is going and how. Moreover, the board in approving the plan, assumes a responsibility for supporting the council in its accomplishment. Councils are encouraged to move at a comfortable pace and one that is most likely to bring success to their early efforts. With training an important ingredient to success, it is also important that councils move into areas they feel prepared to assume. Planning and evaluation are sophisticated processes which all council members may not be trained to accomplish equally. Boards should provide resources to councils to receive training in planning and in evaluating results and it should become a process that is practiced at both the school and the district level.

Appeals of Council Actions

The process of appeal is governed by policy which every board is required to adopt. KRS 160.345(3)(i). KERA does not detail how the process of appeal is to be constructed.

The policy for appeals recommended by KSBA to boards of education involves a three-tiered process which requires the appealing party to first seek reconsideration from the school council. If resolution is not accomplished with the council, the party appeals to the superintendent and then to the board of education. Any person is eligible to appeal a council's action.

KSBA's recommended policy holds that "actions of the council will be reviewed on appeal based on whether the council action was arbitrary, violated district policy, exceeded the authority of the council or was otherwise unlawful under state or federal law." These limited grounds for review presume that the council acted with sound educational judgement and in good faith and discourage disgruntled individuals from seeking board review for frivolous reasons.

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[2]*This criteria for board of education oversight of the school council has been adopted by the Kentucky Education Coalition, a coalition of the state's educational interest groups. The full text of the Coalition's statement on school-based decision making issues can be found at Appendix 1, pages 33-39.*

Review of School Council Policies

Council policies should be reviewed by a board of education with the six considerations outlined under the section "Review of School Council Plans," excluding the seventh consideration of basic educational merit. (See the Kentucky Education Coalition statement on page 37 of Appendix 1.)

Failure of a School to Meet the Required Threshold Improvement Level

Boards of education are to enact policy on school improvement plans, KRS 160.345(3)(c), which are required when a school does not meet the required threshold improvement level governed by KRS 158.6453-158.6455. The statute does not direct what the policy should include. In particular, the statute does not describe how a school improvement plan is to be developed. Thus it is within the board's discretion to adopt in policy a process for the development of the school improvement plan which includes the school council, if one exists, as a key participant in the process and includes review of the plan by the board.

A "school in crisis," or one positioned to become so, is eligible for financial and programmatic assistance from the Department of Education in the form of an assignment of a Kentucky Distinguished Educator to the school. However, this assistance comes at the point of implementing the school improvement plan rather than in the development of it. KRS 158.782(1)(c)1. Thus, the board's role in exercising oversight in these circumstances is to ensure that the school has access to resources in the development and implementation of the plan and that the plan is approved by district professionals as one which addresses areas of needed improvement in the school.

RESOLVING CONCURRENT STATUTORY AUTHORITY

The purpose of this section is to:

1. Summarize the law in eleven areas important to the implementation of school-based decision making and to show that concurrent authority is frequently assigned by law to the governmental entities responsible for implementing school-based decision making.
2. Offer a practical and legally sound interpretation of the law that gives guidance in resolving "who does what" when the law does not clearly delineate.

What this section does not do is answer every question that has been or will be asked about the law and practice of implementing school-based decision making. Rather, it attempts to provide a general framework of law and practice within which specific questions may more easily be answered. For many of these specific questions the best answer will be found in the district through communication and cooperation, being guided by what ultimately best delivers learning opportunities and services to children.

Each section begins with a "Statutory Summary." In the interests of space, it is not a verbatim restatement of the statute, but every effort has been made to be accurate in meaning. The full text of each statute cited is included in Appendix 2, beginning at page 40. The Statutory Summary does not include every statute that pertains to the subject. The statutes selected are those which grant authority or define roles and are thus most instructive to the issues of authority and responsibility.

Following the Statutory Summary is a section entitled "Commentary." In this section, practical resolutions of the law are offered for implementing school-based decision making and harmonizing the roles of the educational participants and leaders in the school district.

CURRICULUM

Statutory Summary

The ***State Board for Elementary and Secondary Education*** shall adopt administrative regulations establishing courses of study and minimum requirements for high school graduation. KRS 156.160(1)(a)(c).

By July 1, 1993, the ***State Board for Elementary and Secondary Education*** shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes, and assessment strategies. KRS 158.6451(4).

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Each ***board of education*** may provide for courses and other services as it deems necessary for the promotion of education and the health and welfare of pupils. KRS 160.290(1).

Boards of education may approve special programs and services to one or more areas of the district where the variation is reasonable based on an attempt to equalize the educational progress of the students within the district. KRS 158.010(2).

Boards of education are required under law to provide certain programs such as special education and preschool at-risk programs. KRS 157.224, 157.3175.

Each ***board of education*** shall file in the board's office its policies relating to the selection of textbooks and instructional materials. KRS 160.340(2)(g).

■■■■■■■■■

The ***school council*** shall determine which instructional materials and student support services are to be provided in the school. KRS 160.345(2)(h).

The ***school council*** shall adopt a policy to be implemented by the principal on the determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal within the local school board's policy. KRS 160.345(2)(j)1.

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Commentary

Board of education policy on curriculum should provide a broad framework within which the school council has the flexibility to develop curriculum which is designed to

enhance the educational performance of students. The school council determines instructional materials, within district resources. This should include the selection of textbooks.

Board of education policies on such issues as accreditation of schools and the provision of mandated state and federal programs should be considered in the curriculum policies of the school council.

ASSIGNMENT OF INSTRUCTIONAL AND NONINSTRUCTIONAL STAFF TIME

Statutory Summary

Each ***board of education*** shall file in the board's office its policies relating to personnel that apply to certified employees including fringe benefits, salary schedules, non-classroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, demotion. KRS 160.340(2)(e).

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The ***school council*** shall adopt a policy to be implemented by the principal in the assignment of all instructional and noninstructional staff time. KRS 160.345(2)(j)2.

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The ***superintendent*** is responsible for all personnel actions including hiring, assignments, transfer, etc. KRS 160.390(1).

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Commentary

Concurrent responsibility for the assignment of staff is granted by statute to the superintendent, operating under the policy direction of the board of education, and to the principal, operating under policy direction from the school council, as noted above. It is recommended that school councils be given the flexibility to make policies regarding the assignment of school staff within the school.

The actions which the council addresses under these policies should be broadly interpreted, including one or any of the following: the instructional time of certified staff; the noninstructional time of certified staff, such as bus duty for teachers; or the time of noninstructional staff, such as custodians, teacher aides, etc.

ASSIGNMENT OF STUDENTS TO CLASSES AND PROGRAMS WITHIN THE SCHOOL

Statutory Summary

The school council shall adopt a policy to be implemented by the principal assigning students to classes and programs within the school. KRS 160.345(2)(j)3.

Commentary

School councils will adopt policies which govern the criteria and procedures by which the principal will assign students to classes and programs. Questions have arisen about the status of magnet programs, pull-out programs or special education programs which are based in one school, but serve children from several school attendance areas. Does a school council's policy govern the assignment of students to these programs even if the attendance of students from other schools is affected? The prevailing view seems to be that these are district programs and operate under the direction of the central administration. In all cases, the assignment of students in special programs is governed by applicable state and federal law.

DETERMINATION OF THE SCHOOL SCHEDULE

Statutory Summary

The minimum school term of 185 days is established by statute. The ***State Board for Elementary and Secondary Education*** adopts regulations governing the use of school days for such purposes as attendance at statewide professional meetings, local disasters and others. KRS 158.070.

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The ***board of education*** may extend the school term beyond the minimum term. The board of education must use four days of the minimum term for professional development; it may use a limited number of days for holidays and planning activities and may use the number of days deemed necessary for mourning or disaster. KRS 158.070.

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The ***school council*** shall adopt a policy to be implemented by the principal for the determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board. KRS 160.345(2)(j)4.

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Commentary

While the school council has policy making authority in the schedule of the school day and week, the schedule for the school is subject to the considerable structure already required by the State Board for Elementary and Secondary Education which is passed on to the local board of education. Deviations in schedule from the district-at-large would affect bus transportation and have district-wide consequences. Clearly, the school council may determine how the schedule of classes and programs will proceed within the school day and within the school week. Beyond this, school scheduling will require the school council to work closely with the board of education and superintendent.

USE OF SCHOOL SPACE DURING THE SCHOOL DAY

Statutory Summary

Each ***board of education*** shall file in the board's office its polices relating to limitations or restrictions on use of school facilities. KRS 160.340(2)(c).

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The ***school council*** shall adopt a policy to be implemented by the principal for determination of the use of school space during the school day. KRS 160.345(2)(j)5.

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Commentary

The policy of the board of education on the use of school space during the school day should be broadly stated policy addressing itself to such issues as fire and safety requirements and laws on equal access to school facilities. Within this broad framework, the school council should have flexibility to use school space during the school day as it determines best serves its students and staff. Local board policy governs the use of school space outside of the school day. Alterations in the structure of the school building are capital construction questions which must involve the board of education for approval.

INSTRUCTIONAL PRACTICES

Statutory Summary

By July 1, 1993, the ***State Board for Elementary and Secondary Education*** shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes, and assessment strategies which will provide guidance on curriculum, teaching and assessment strategies, instructional material resources and other teaching resources. KRS 158.6451(4).

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The ***superintendent*** shall have general supervision, subject to the control of the board of education, of the course of instruction of the schools. KRS 160.370.

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The ***school council*** shall adopt a policy to be implemented by the principal on the planning and resolution of issues regarding instructional practices. KRS 160.345(2)(j)6.

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Commentary

Innovative teaching practices and new ideas to promote student achievement are encouraged under KERA. The school council should have flexibility to determine policies on the planning and resolution of instructional practices within the school which enhance student performance and encourage academic freedom and innovation. These policies should be based on the student outcomes and school goals established in KERA and on the outcomes and assessment strategies promulgated by the State Board and the Department of Education as they are developed.

DISCIPLINE

Statutory Summary

Each ***board of education*** shall make and adopt rules and regulations for the conduct of pupils which are consistent with the general school laws of the state. KRS 160.290(2).

Each ***board of education*** shall file in the board's office its policies relating to discipline and conduct of pupils. KRS 160.340(2)(b).

The ***board of education*** may adopt and promulgate a code of student rights and responsibilities for secondary schools. KRS 160.295(1).

The ***board of education*** may expel any student for conduct prescribed, but only after an opportunity for a hearing before the board. The superintendent, principal, assistant principal, or head teacher of any school may suspend a student. KRS 158.150.

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The ***superintendent*** shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the discipline of pupils. KRS 160.370.

The ***school council*** shall adopt a policy to be implemented by the principal in the selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal. KRS 160.345(2)(j)7.

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Commentary

While the board of education retains very specific responsibility under law in the area of discipline, it is recommended that the district's discipline policies be sufficiently broad that school councils are afforded the flexibility to develop discipline policies and classroom management techniques which provide an environment to enhance student achievement. The board of education has the responsibility to ensure the legality of all discipline policies and classroom management techniques and to ensure that the rights of students are being protected in accordance with state and federal law ranging from such subjects as dress code to search and seizure.

EXTRACURRICULAR PROGRAMS, ACADEMIC QUALIFICATIONS, ATTENDANCE REQUIREMENTS

Statutory Summary

The ***State Board for Elementary and Secondary Education may*** designate an organization or agency to manage interscholastic athletics. The agency so designated shall not promulgate rules, regulations, or bylaws which prohibit pupils in grades seven to eight from participating in high school sports or from participating in more than one school-sponsored team at the same time. KRS 156.070.

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The ***school council*** shall adopt a policy to be implemented by the principal on the selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision. KRS 160.345(2)(j)8.

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Commentary

Authority is vested in the State Board and in its designated agency, the Kentucky High School Athletic Association, to promulgate rules and regulations governing participation in public school athletic programs. These regulations are binding upon the district unless the school council is granted a waiver of regulation. Within the framework of these state and district standards, the school council develops policies relating to the participation of students by establishing academic and attendance requirements. In addition, the school council develops policies on the selection of extracurricular programs for the school, their evaluation and supervision.

DISTRICT FINANCES

Statutory Summary

The ***State Board for Elementary and Secondary Education*** shall adopt by administrative regulation a formula by which school district funds shall be allocated to each council. KRS 160.345(8).

The ***Department of Education*** is to administer a school council discretionary fund to be distributed to the schools participating in school-based decision making. KRS 160.345(9).

Public school funds made available to the credit of each district during any year shall be received, held and expended by the district ***board of education***, subject to law and regulations of the ***State Board for Elementary and Secondary Education*** related to salaries, capital outlay and debt service. KRS 157.420.

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Each ***board of education*** shall have general control and management of all school funds in its district. KRS 160.290(1).

The policy adopted by the local ***board of education*** to implement school-based decision making shall address school budget and administration, including discretionary funds, activity and other school funds, funds for maintenance, supplies and equipment, and accounting and auditing. KRS 160.345(3)(a).

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The local school district board of education shall appropriate within the district budget in kindergarten through the twelfth grade an amount not less than $75.00 per child in each school for the purposes of instructional materials, supplies and equipment. The ***school-based council*** shall determine the expenditure of these funds in each of the schools with councils. 702 KAR 3:240(2).

The ***school council*** shall determine which instructional materials and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. KRS 160.345(2)(h).

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Commentary

The board of education is the receiving authority for all operational funds allocated to the district. This is necessary for the efficiency and integrity of district accounting procedures and to protect the ultimate accountability of the board of education which is responsible for all district audits. See KRS 156.200, 156.265, 156.670, 157.060, 157.061, related to district audits. In addition, the board of education establishes the overall district budget, determining the fair and equitable appropriations necessary for each school in the district. Board of education policies govern the procedures by which district funds will be expended.

For the 1991 school year, the school council will have an allocation of seventy-five dollars ($75) per child to be expended as determined by the school council within the categories set out in regulation. 702 KAR 3:240. In addition, the school council is to determine the instructional materials and support services which are to be provided in the school. Once decided, the board of education is to appropriate sufficient funding for the instructional materials and student support services requested by the council, within the available resources for the district. The board is responsible for ensuring that equitable funding is distributed to both school-based decision making schools and those that are not.

KSBA has begun training with boards of education on a budget planning process that will begin a year in advance of the school year for which the budget applies. This budget preplanning process would incorporate each school council's assessment of needs and proposals for the coming year so that the overall district budget better accommodates the budgeting priorities of each school council. Ideally, both boards and councils would develop long-range strategic plans which would guide the budgetary outcomes.

PURCHASING

Statutory Summary

The ***State Board for Elementary and Secondary Education*** may secure price contract agreements for the purchase of supplies and equipment by district boards of education. KRS 156.074.

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Each school district shall be under the management and control of a ***board of education*** which shall be a body politic and corporate with the authority to make contracts. KRS 160.160(1).

Any ***board of education*** may advertise for its own bids on supplies and equipment and may award contracts if the bid meets the specifications and standards fixed by the State Board and the bid price is lower than that established by the price contract agreement. KRS 156.076.

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Commentary

The board of education is the legal entity with the power to contract for the district and to make purchases by approved advertising and bidding processes.

The board of education, through policy, will determine the process for the payment of expenses and the attendant accounting procedures necessary for expending funds in the district which will apply to all schools.

PERSONNEL

Statutory Summary

Board of Education

Under its general authority to manage and control the public schools in its district, the board of education is to appoint the superintendent, fix the compensation of employees, and to make and adopt rules and regulations for the qualification and duties of employees. KRS 160.290(1).

The board of education has the authority to create and abolish positions of employment and to prescribe qualifications and duties of categories of employees. OAG 91-10, 79-78, 78-41.

All employees of the local district shall have the qualifications prescribed by law and by the regulations of the State Board and of the employing board. KRS 160.380(2)(a).

Each board of education shall file in the boards office its policies relating to personnel policies that apply to certified employees, including fringe benefits, salary schedules, non-classroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion; and evaluation of certified employees. KRS 160.340(2)(e)(f).

Superintendent

The superintendent is responsible for all personnel actions including hiring, assignments, transfer, dismissal, suspension, reinstatement, promotion, demotion, and for reporting these actions to the board of education. KRS 160.390(1).

All appointments, promotions and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. KRS 160.380(2)(a).

The superintendent shall be responsible for the hiring and dismissal of all personnel in the district. KRS 160.370.

When a vacancy occurs in a school which has elected school-based decision making, the superintendent shall provide a list of recommended applicants. He provides additional names upon request and is bound by the hiring decision made at the school level. He completes the hiring process. KRS 160.345(2)(i).

Principal

From the list of applicants recommended by the superintendent, the principal shall select personnel to fill vacancies, after consultation with the school council. KRS 160.345(2)(i).

School Council

The school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the council is formed but does not have the authority to recommend transfers or dismissals. KRS 160.345(2)(g).

When a vacancy occurs in the position of principal, a school council shall select the new principal from among those applicants recommended by the superintendent. KRS 160.345(2)(i).

When a vacancy occurs in a school which has elected school-based decision making, the principal shall select personnel to fill vacancies, after consultation with the school council. KRS 160.345(2)(i).

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Commentary

The delineation of responsibility on personnel matters has proven to be one of the more complex areas. The following statements can be made with some certainty:

The board of education creates classifications and sets compensation; it creates and abolishes positions of employment. The board of education may establish qualifications for staff to be employed in a district which exceed the certification requirements established by the state board for elementary and secondary education. For example, the board of education may determine that an emphasis on writing skills requires that all English teachers to be employed have masters degrees in English.

The superintendent is responsible for all personnel actions on central office staff and district wide employees such as bus drivers. The superintendent provides a list of recommended applicants to the principal from which the selection will be made to fill a vacancy. The superintendent provides a list of recommended applicants for the position of principal to the school council from which the selection will be made to fill a vacancy in the position of principal. The superintendent provides additional applicants upon request. It is generally agreed that the superintendent is not required to provide an applicant's name if the superintendent cannot

recommend the individual. The superintendent is bound by the selection made at the local school, and completes the hiring process.

The principal fills vacancies from the list of applicants recommended by the superintendent after consultation with the school council. When the vacancy is in the position of principal, the school council selects the new principal from the list of applicants recommended by the superintendent.

Less clear is the statutory language that the school council determines the number of persons to be employed in each job classification at the school within the total available funds for the school. KRS 160.345(2)(g). Since the board establishes and abolishes positions for employment, would the council have the authority to eliminate an established, funded position in the school? The answer depends upon the circumstances involved.

The council may not eliminate a position by recommending a transfer or dismissal. KRS 160.345(2)(g). It is KSBA's position that when a vacancy exists, the council may decide whether the vacant position will be filled and what classification of employee will fill it, for example, whether it will be filled with a teacher aide or a certified teacher. However, the council cannot functionally eliminate a position established by the board at the school, nor jeopardize accreditation of the school without approval of the board. For example, in acting upon a vacant position for elementary guidance counselor, the council could not eliminate the classification of elementary guidance counselor by choosing not to fill a solitary position, or so reduce the ratio of students to guidance counselor as to fall below accreditation standards applicable to the school.

Transfers and assignments of existing personnel also give rise to difficult interpretations of the law. The questions arise in this context: can a superintendent unilaterally transfer an employee into an open position in a school-based decision making school or is the principal, in consultation with the school council, responsible for the selection of all personnel at the SBDM school? Under the law, the superintendent has sole authority to make transfers and assignments of personnel within the district. KRS 160.390(1), 160.380(2)(a). The principal, after consultation with the school council, makes personnel decisions on vacancies, but the school council does not have the authority to recommend transfers or dismissals. KRS 160.345(2)(g).

The competing interests are clear. It is critical to the superintendent to make transfers and personnel assignments in response to such circumstances as overstaffing where schools have lost student enrollment. At the same time, the faculty of a school has a vested interest in the skills

and credentials of faculty members who are employed in the school because the school is accountable under the rewards and sanctions provisions of KERA. Ideally, the superintendent and principal, after consultation with the school council, will arrive at a sound personnel decision when a transfer is necessary. If communication and harmonious resolution are not possible, how are such personnel issues to be resolved under the law?

The answer appears to center on the definition of a vacancy since KRS 160.345(2)(i) states that the principal selects personnel to fill vacancies, after consultation with the school council. A recent Attorney General's Opinion, OAG 91-149, offers clarification in a specific circumstance: when the superintendent makes a concurrent shift or transfer of existing personnel between, or among, two or more existing positions. The Opinion concludes that a transfer or change in appointment prior to July 16 does not create a vacancy. The reasoning rests on two statutes, KRS 160.380(1) and KRS 161.760. If no legal vacancy is created by transfers and changes in assignment of existing personnel prior to July 16, the principal and school council do not have a statutory function in selecting personnel for these openings. It is important to emphasize that OAG 91-149 applies only to concurrent transfers or assignments of existing personnel to existing positions.

There is, as yet, no authoritative statement from the Attorney General's Office or the Department of Education on how transfers and assignments of existing personnel are to be conducted at school-based decision making schools in all other circumstances. Once again, emphasis must be placed on the importance of good communication, mutual respect for the interests of all parties and strong efforts to arrive at mutually satisfactory decisions.

Lastly on personnel, the board has the authority to enact personnel policies that apply to certified employees, including hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion. KRS 160.340(2). By board policy, guidelines could be established whereby transfers or other personnel actions as determined by the superintendent would proceed under fair and equitable processes and in conformity with labor agreements.

The prevailing viewpoint on special education, gifted and early childhood programs conducted at a single school but serving children from a number of school attendance areas is that these are district programs for which the hiring of employees is the responsibility of the superintendent.

THE SCHOOL DISTRICT WITH SCHOOL-BASED DECISION MAKING

SUCCESSFUL PRACTICE

Although school-based decision making is relatively new to public education, a number of studies have now been published which suggest the character of districts which have the greatest potential for success in school-based decision making. To effectively implement school-based decision making, a strong commitment and an adjustment in traditional roles and past procedures will be needed.

While school-based decision making has not altered the concept of a district of schools under the management of a board of education, it has changed the governance structure of the district. Consequently, certain traditional duties of the board and superintendent will become even more important in this new governance structure. Rather than focusing on uniformity of policy and programming, both the board and the superintendent will become facilitators to educational initiatives and programming developed in the schools. The board and superintendent will be the catalysts for finding the ways and means to fund new initiatives and to train professionals.

A recent study by RAND's Institute for Education and Training concluded that there are three primary challenges to school boards and administrators to successful school-based decision making:

1. Providing technical and material help to schools that are evolving their distinctive missions, styles, and needs;

2. Holding schools accountable without dominating their decisions or standardizing their practices; and

3. Coordinating programs between grade schools that adopt one educational approach and secondary schools that use different ones.[3]

The board's leadership in the district and in the community will become one of its most essential roles. The success of KERA depends greatly on the success with which boards set a visionary direction for the district and inspire the district to follow it. This requires long-range planning and evaluation, processes to which the board can now give increased attention since operational and regulatory decisions will diminish. With the change to an outcome based educational system, ensuring accountability to the outcomes established by the state and to district goals and community standards is also one of the board's most important functions.

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[3] *NSBA News Service, June 25, 1991, summarizing Decentralization and Accountability in Public Education, Paul T. Hill, Josephine Bonan, RAND (1991).*

Board policy will have a dual function during the start-up period before 1996 when many districts will have both SBDM and non-SBDM schools. Non-SBDM schools will require policy much as it now exists, but SBDM schools will require more general policies and liberal waiver provisions to encourage decision making at the school site.

The superintendent, as the chief administrator for the school district, will continue to be responsible for the school district and accountable to the board for the performance of students. One of the superintendent's critical roles is in enabling school councils to assume new responsibilities without draining attention from activities that promote student learning. School budgeting and strategic planning are examples of time-consuming processes that are important for school councils to assume, yet cannot be permitted to deprive teachers of time in the classroom and in the preparation necessary for quality teaching.

One way the superintendent can assist councils with these responsibilities is by utilizing the expertise of central office staff as resources and support staff for school councils. Central office staff can become the field facilitators for school councils by acting as resources in specific areas of expertise, as coordinators for school councils or as liaisons with each council.

The principal will also experience a change in role as the administrator of a school-based decision making school. In the language of KERA, the principal is the primary administrator and instructional leader of the school. KRS 160.345(2)(c). The principal continues to be the day-to-day administrator of the school, responding to individual parent and student complaints and managing personnel, but the principal's skills as chair of the school council are key to a productive and flourishing council. The principal will guide the council's focus toward its purpose of enhancing student achievement and improving instruction. Many principals have practiced management styles that have included broad faculty participation in school decisions, but the labors that often accompany group decision making can seem inefficient compared to the ease of unilateral decision making. Training for principals in group leadership is an investment that boards of education would wisely make for successful school-based decision making.

Instituting school-based decision making does not mean that all are prepared to make it successful. Training and learning and trial and error will accompany Kentucky's statewide experiment. But the most important keys to success are communication and trust within the district and commitment to what is best for its school children. This is what the community must see in its educational leaders and professionals to gain the support and steadfastness that will be required before tangible results are realized from today's efforts.

QUESTIONS AND ANSWERS

Some commonly asked questions about school-based decision making follow:

1. **In a system with diversified programming, how does the district ensure continuity among schools for students who may move from one school to another or come together in the district's high schools and middle schools?**

   Kentucky has moved to an outcomes-based educational program which ensures that students will have attained comparable levels of knowledge, even if achieved from different texts and by different teaching practices. The General Assembly recognized that competent teachers have the skills to integrate students into new programs. Some experts have recommended the use of district-wide steering committees, with representatives of each council, established by the board of education for the discussion of methods of integration and other issues which have district-wide implications for students.

2. **Must the school council enact policy in each of the eight functions listed in KRS 160.345(2)(j). (These are listed on page 59).**

   Policy is required in each of the eight areas listed. However, the council is not required to act in all areas, and may, by its policy, indicate that previous practices of the principal or board policy will operate in the particular area for the school year.

3. **May individuals other than certified staff serve on committees of the school council?**

   While the statute, KRS 160.345(2)(d), refers only to the participation of certified staff on school committees, it is widely agreed that this does not prohibit the participation of classified staff, parents, citizens, or students on committees.

4. How should parent representatives to the school council deal with questions from individual parents regarding complaints about their child or individual complaints with the school program?

   The school council is a policy-making body. The principal, as the daily administrator of the school, is the person responsible for handling individual student complaints. It is not recommended that parents as representatives to the school council, or the school council in its entirety, become involved in individual student complaints, except as these complaints have implications more generally for policy or program changes. This allows the school council to continue to focus on larger issues for the school.

5. Is the school council covered by liability insurance?

   The board of education is required by law to carry liability insurance for the school council. The coverage for school councils is currently the same as for boards of education.

6. Are committees of school councils subject to the open meetings law?

   In KRS 61.805(2), a public agency is defined to include "any committee, ad hoc committee, subcommittee, subagency or advisory body of a public agency." The school council is subject to the open meetings law, thus committees formed by the school council are also subject to the open meetings law.

7. What is the status of alternatives to the school council model?

   The State Board for Elementary and Secondary Education has expressed a preference for the school council composition of principal, three (3) teachers, and two (2) parents. Proposed regulation as amended, 701 KAR 5:100, proposes that alternatives to the 3-2-1- configuration be considered only if they were functioning councils prior to July 13, 1990. The State Board has expressed strong support for maintaining a one-third representation of parents.

APPENDICES

Appendix 1 **33-39**

Education Coalition Statement on
School-Based Decision Making

Appendix 2 **40-65**

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EDUCATION COALITION

Catholic Conference of Kentucky
Kentucky Association of School Administrators
Kentucky Association of School Superintendents
Kentucky Chamber of Commerce
Kentucky Congress of Parents and Teachers
Kentucky Department of Education
Kentucky Education Association
Kentucky Educational Foundation
Kentucky School Boards Association
Prichard Committee for Academic Excellence

APPENDIX 1

The Education Coalition includes ten major statewide organizations and agencies that represent professional educators, parents, and other citizens who have a vital interest in elementary and secondary education in Kentucky. The members of the Coalition have worked together to construct the attached set of recommendations concerning site-based decision making, one element of the Kentucky Education Reform Act (KERA). The recommendations provide clear guidance for determining an appropriate allocation of authority and responsibility for school councils and school boards. The Coalition believes the recommendations provide one way to reduce some of the uncertainty that accompanies site-based decision making, and offers the recommendations with the hope that their adoption within local school districts will contribute to the effective functioning of school councils and school boards, which will in turn contribute to the improvement of education in Kentucky.

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Kentucky Association of School Administrators
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Kentucky Department of Education
Kentucky Education Association
Kentucky Educational Foundation
Kentucky School Boards Association
Prichard Committee for Academic Excellence

SITE-BASED DECISION MAKING

Introduction

One intention of the Kentucky Education Reform Act of 1990 (KERA) is to decentralize decision making so that many decisions formerly made at the state level are made at the local level. The state will judge local boards and local schools by the effectiveness of the results they produce, instead of giving them extensive and detailed mandates about how to operate schools. They are to be judged on the basis of a set of outputs which are defined in KERA, and by performance standards and an assessment system which will measure progress toward those outcomes. Local boards and local councils should set additional criteria for evaluating effectiveness.

KERA intends to balance the legal responsibility for the school system, which is held by the local school board, with the newly created legal responsibility held by the school councils in each school where school councils have been formed. Both the board and the council must have authority to accompany their responsibility. Each should exercise authority consistent with its scope of authority. KERA directs local school boards to adopt and amend policies which will allow the school councils to function effectively. (KRS 160.345(2))

Restraint in the exercise of authority is the key to successful sharing of authority. School councils must be sensitive to their participation in a larger system. While KERA grants specific areas of authority to school councils, councils should in all instances seek to cooperate with their local board and should seek to deviate from consistency with the overall direction of the system and its specific policies only for good and clear reasons.

Local school board authority is larger in scope and encompasses -- directly or indirectly -- all activities within local schools. For school councils to function effectively, boards must assert their authority over school councils sparingly. In practice, this requires local boards to adopt permissive policies regarding school councils, to be permissive in their granting of waivers from board policies, to adopt policies with specific criteria regarding grounds for appeal of school council decisions, and to adopt specific, limited criteria for board review of school council plans.

In practice, school councils and local boards should communicate, collaborate, and coordinate efforts in all areas, so that potential conflicts are avoided. Even school boards and councils operating with these intentions, however, have questions about what decisions school councils can make which are not subject to override by the local school board.

School council decisions and policy-making

KERA clearly authorizes school councils to make these decisions:

1) Set policies to meet the goals of KERA (KRS 160.345(2)(c))

2) Determine the frequency and agenda for its own meetings (KRS 160.345(2)(e))

3) Determine the number of persons to be employed in each job classification at the school, after receiving notification of the funds available for the school from the local school board (KRS 160.345(2)(g))

4) Determine instructional materials and student support services (KRS 160.345(2)(h))

5) Select a new principal from recommendations from the superintendent, if a vacancy occurs, with the superintendent providing additional applicants upon request (KRS 160.345(2)(i))

In addition, KERA directs school councils to adopt policies in eight areas, enumerated in KRS 160.345(2)(j)(1-8). The first item in the set of eight ends with the phrase "within the local school board's policy." Differences of interpretation have arisen about whether the phrase modifies the last phrase in the sentence, the whole sentence, all eight of the items in section (2)(j), or all of the enabling legislation related to school councils. Without resolving the issue, we recommend a set of practices which will enable both the school council and the school board to take appropriate responsibility and exercise appropriate authority in the areas covered in these sections of the law.

We recommend that local school boards adopt and implement facilitating policies which specifically delegate authority to school councils and enable councils to make decisions in the five areas listed above and for all eight items in (2)(j), subject to the provision that the policies and decisions generated within these areas be consistent with:

1) State and federal laws and regulations

2) Concerns for health and safety

3) Concerns for liability

4) Financial resources available

5) Contractual obligations to personnel and other providers of goods and services

6) The authority delegated to the council by the board within the statutes

Council plans

Local boards need to recognize that school councils will develop planning skills over time. Initially, school councils will need support and encouragement. Local boards need to have plans for the system which are outcome oriented and serve as a model of good planning for school councils. School councils should be able to look to board plans to measure the adequacy of their own plans. School councils need to recognize the importance of gaining support for their plans from the local board.

In the same spirit as our recommendations above regarding school council decisions and policy-making, we recommend that local board policies establish a procedure for review of school council plans which uses only the provisions for review listed above, plus a determination of basic educational merit, as the criteria for questioning any elements of a proposed school council plan. Further, we recommend that board policies outline a set of suggestions for plans by school councils which include the following parameters:

1) Be brief and in outline form, roughly three to six pages in length

2) Set out broad goals related to the educational goals established in sections 2 and 3 of KERA, specific objectives, and plans for implementation

3) Establish a means for evaluating progress toward the goals

4) Identify to what extent the council will address each of the eight policy areas in 160.345(2)(j)

5) Indicate the relation of the school plan to district plans

Appeal of council decisions

Any appeals process should aim to resolve disputes as quickly as possible and as close as possible to the source of the dispute. We recommend that school boards adopt a policy which includes the following process for appeal of decisions of a school council.

1) Appeal the decision to the council for reconsideration

Optional step:

Solicit mediation from a person acceptable to the council and to the person bringing the appeal, if agreement on mediation can be reached

2) Appeal the decision to the superintendent

3) Appeal the decision to the school board

Committee structure

We recommend that parents be involved in any committee established by school councils.

District-wide steering committee

For districts with more than one school with a school council, we recommend establishment of a district-wide steering committee to consider issues with district-wide implications. The steering committee should be composed of representatives from all school councils in the district, from central staff, and from the local board. The representatives from the school councils on the steering committee should include at least one parent, one teacher, and one principal.

KRS 156.070 General powers and duties of state board

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency. The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in high school sports or from participating on more than one (1) school-sponsored team at the same time in the same sport.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have

been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission; provided, however, that the option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief

state school officer, prescribe, print, publish, and distribute at public expense administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and faculty renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

* * * * *

KRS 156.074 Purchase contract for supplies, equipment; specifications; terms

The State Board for Elementary and Secondary Education, upon requisition to the Finance and Administration Cabinet, may secure price contract agreements for the purchase of supplies and equipment by district boards of education. The board by regulation shall specify the particular types of supplies and equipment for which contracts shall be secured and may revise such lists from time to time. The board, in consultation with the Finance and Administration Cabinet, shall fix standards of quality and quantity and shall develop standard specifications for supplies and equipment. The Finance and Administration Cabinet shall enter into price contract agreements under the law relating to state purchasing. Such contracts shall establish sources of supply, maximum prices to be paid, and shall set forth the length of time for which such contracts shall be valid, not to exceed one (1) year.

* * * * *

KRS 156.076 Price contracts information to be furnished district boards; purchase conditions

The chief state school officer shall furnish full information on established price contracts to each district board of education. Any board of education may purchase supplies and equipment from the vendor to whom the contract has been awarded, under the terms of the contract. Any board of education may advertise for its own bids on supplies and equipment which meet the specifications of the contracts awarded by the Division of Purchases. Any board of education, after advertising for bids, may award contracts if the chief state school officer certifies that the bid offers

supplies and equipment which meet the standards and specifications fixed by the State Board for Elementary and Secondary Education and that the bid price is lower than that established by the price contract agreement.

* * * * *

KRS 156.160 Adoption of administrative regulations by State Board for Elementary and Secondary Education

(1) The State Board for Elementary and Secondary Education shall adopt administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be adopted for the following:

(a) Courses of study for the different grades and kinds of common schools, including procedures for developing an ungraded primary program which shall be implemented by the beginning of the 1992-93 school year;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board for Elementary and Secondary Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. The regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451;

Such regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the State Board for Elementary and Secondary Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by

the State Board for Elementary and Secondary Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) At the request of a local school council, any local school district superintendent shall request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section relating to measurement of performance outcomes and determination of successful schools shall not be subject to waiver. Any waiver granted under this subsection shall be subject to revocation upon a determination by the State Board for Elementary and Secondary Education that the school holding the waiver has subsequently failed to reach its threshold level as provided for in KRS 158.6455.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

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KRS 156.200 Examination and supervision of reports and accounts of boards of education and educational institutions

The chief state school officer shall receive and examine all reports required by law or by the State Board for Elementary and Secondary Education and, in person or through is assistants, shall examine and advise on the expenditures, business methods and accounts of all boards of education and all institutions placed under the management and control of the Department of Education as established in KRS 156.010. He shall see that all financial and educational accounts are accurately and neatly kept and that all

reports are made according to the forms adopted by the State Board for Elementary and Secondary Education.

* * * * *

KRS 156.265 State Committee for School District Audits

(1) There shall be a State Committee for School District Audits comprised of the Governor, or a person designated by him, the Attorney General, a person designated by the secretary of the Finance and Administration Cabinet and the chief state school officer. The Governor, or the person designated by him, shall be the chairman of the committee.

(2) The committee shall have the accounts of each board audited not less than once every two (2) fiscal years. The committee also may, at any time, cause to be made a comprehensive and complete audit of any board. Upon the written request of the state board, the chief state school officer, the Attorney General, the Auditor of Public Accounts, the Governor, or the Office of Education Accountability, the committee may cause the accounts of a board to be audited. Each audit shall cover such period of time, and shall include such auditing procedures and standards, as the committee may designate.

(3) Audits authorized under this section are in addition to any audits contemplated under KRS 11.090, 156.200 or KRS Chapter 43.

(4) The actual expense of any audit authorized under this section shall be borne equally by the district board of education and by the committee from funds allocated to it.

* * * * *

KRS 156.670 Development of plan for education technology; submission, approval, and reporting requirements

(1) By January 1, 1991, the council shall develop the broad parameters of the initial five (5) year plan for education technology and submit the plan to the Legislative Research Commission for approval. Implementation of the first stages of the plan shall begin immediately upon approval. The plan shall outline the Commonwealth's five (5) year activities related to purchasing, developing and using technology to:

(a) Improve learning and teaching and the ability to meet individual students' needs to increase student achievement;

(b) Improve curriculum delivery to help meet the needs for educational equity across the state;

(c) Improve delivery of professional development;

(d) Improve the efficiency and productivity of administrators; and

(e) Encourage development by the private sector and acquisition by districts of technologies and applications appropriate for education.

(2) The five (5) year plan shall cover all aspects of

education technology, including but not limited to, its use in educational instruction and administration, video and computer systems, software and hardware, multiple delivery systems for satellite, microwave, cable, instructional television fixed service, fiber optic, and computer connections products, the preparation of school buildings for technological readiness, and the development of staff necessary to implement the plan.

(3) The five (5) year plan shall include specific recommendations to the State Board for Elementary and Secondary Education for the adoption of administrative regulations to establish and implement a uniform and integrated system of standards and guidelines for financial accounting and reporting which shall be used by all school districts. These recommendations shall be submitted January 1, 1991.

(4) The integrated technology-based communications system shall provide comprehensive, current, accurate, and accessible information relating to management, finance, operations, instruction, and pupil programs which are under the jurisdiction of the Department of Education. The system shall be operational by the beginning of the 1991-92 school year.

(5) To facilitate communication among teachers, parents, students, and prospective employers of students, and to provide access to many vital technological services, the five (5) year plan shall include the installation of a telephone in each classroom.

(6) In designing and implementing the five (5) year plan, the council shall consider seeking the active participation of private organizations whose knowledge and assistance will be useful.

(7) The council shall update as necessary the plan developed under subsection (2) of this section and report to the Legislative Research Commission by July 1 of each year.

(8) The council shall submit its recommendations to the State Board for Elementary and Secondary Education, which shall accept the recommendations, or return them to the council along with suggestions for changes to make the recommendations consistent with the policies of the State Board for Elementary and Secondary Education.

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KRS 157.060 Reports of funds received and spent by school districts

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the State Board for Elementary and Secondary Education or the State Board for Adult, Vocational Education and Vocational Rehabilitation at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

* * * * *

KRS 157.061 Annual audits of school districts

The integrated technology-based communications system, established by KRS 156.670, shall be used by the Department of Education to conduct internal fiscal, management, and compliance audits of each school district in the Commonwealth on an annual basis. A copy of the audit shall be submitted to the Legislative Research Commission, the Governor, and the State Board for Elementary and Secondary Education.

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KRS 157.224 Statewide plan for exceptional education programs

(1) The Commonwealth of Kentucky is committed to providing a comprehensive educational program for its exceptional school age children. The Department of Education coordinates, directs, and monitors that program. State direction and implementation of a statewide exceptional education program is manifested in the biennial appropriation of funds to finance a particular number of such classroom units. The rate at which new exceptional units are funded indicates the state's ability to assure a quality educational opportunity for appropriate students in existing, locally operated, exceptional class units.

(2) All county and independent boards of education shall operate special education programs to the extent required by, and pursuant to, a plan which has been approved by the State Board for Elementary and Secondary Education. If any county or independent board of education fails to operate and implement special education programs in accordance with an aforesaid plan, the application of said county or independent board of education for minimum foundation payments may be considered insufficient.

* * * * *

KRS 157.3175 Preschool education program; grant allocation; program components; exemption

(1) Beginning with the 1990-91 school year, it shall be the responsibility of each local school district to assure that a developmentally appropriate half-day preschool education program is provided for each child who is four (4) years of age by October 1 of each year and at risk of educational failure. Any school district which can show a lack of facilities to comply with this section may apply for an exemption to delay implementation until 1991-92. All other four (4) year old children shall be served to the extent placements are available. The State Board for Elementary and Secondary Education, upon the recommendation of the chief state school officer, shall adopt administrative regulations establishing the guidelines for the program. Administrative regulations shall establish eligibility

criteria, program guidelines, and standards for personnel.

(2) "Developmentally appropriate preschool program" means a program which focuses on the physical, intellectual, social, and emotional development of young children. The preschool program shall help children with their interpersonal and socialization skills.

(3) Funds appropriated by the General Assembly for the preschool education programs shall be granted to local school districts according to a grant allotment system approved by the State Board for Elementary and Secondary Education. Children who are at risk shall be identified based on the federal school lunch program eligibility criteria for free lunch. Appropriations shall be separate from all other funds appropriated to the Department of Education.

(4) The chief state school officer shall receive and review proposals from local school districts for grants to operate or oversee the operation of developmentally appropriate preschool education programs. Districts may subject proposals for implementing new services, enhancing existing preschool education services, or contracting for services. In designing a local early childhood education program, each district shall work with existing preschool programs to avoid duplication of programs and services and to avoid supplanting federal funds.

(5) Each program proposal shall include, at a minimum:

(a) A description of the process conducted by the district to assure that the parents or guardians of all eligible participants have been made aware of the program and of their right to participate;

(b) A description of the planned educational programming and related services;

(c) The estimated number of children participating in the program;

(d) Strategies for involving children with disabilities;

(e) Estimated ratio of staff to children with the maximum being one (1) adult for each ten (10) children;

(f) The estimated percentage of children participating in the program who are at risk of educational failure;

(g) Information on the training and qualifications of program staff and documentation that the staff meet required standards;

(h) A budget and per-child expenditure estimate;

(i) A plan to facilitate active parental involvement in the preschool program, including provisions for complementary parent education when appropriate;

(j) Facilities and equipment which are appropriate for young children;

(k) The days of the week and hours of a day during which the program shall operate;

(l) A plan for coordinating the program with existing medical and social services, including a child development and health screening component;

(m) Assurances that participants shall receive breakfast or lunch;

(n) Program sites which meet state and local licensure requirements;

(o) A plan for coordinating program philosophy and activities with the local district's primary school program; and

(p) An evaluation component.

(6) Programs shall reflect an equitable geographic distribution representative of all areas of the Commonwealth.

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KRS 157.420 Restrictions governing expenditure of funds from public school fund

Public school funds made available to the credit of each district during any year shall be received, held and expended by the district board, subject to the provisions of law and administrative regulations of the State Board for Elementary and Secondary Education. The following restrictions shall govern the expenditure of funds from the public school fund:

(1) The teachers' salaries allotment for each district from the public school fund and from local sources shall be used only for teachers holding properly authorized certificates. The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year or the allotment under KRS 157.390(3) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The State Board for Elementary and Secondary Education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for salaries paid from the base funding is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for instructional salaries paid with state funds the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same rank and experience of teachers in the current year as in the preceding year.

(3) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the State Board for Elementary and Secondary Education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the State Board for Elementary and Secondary Education under KRS 160.550; and

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.

(4) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the State Board for Elementary and Secondary Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.

(5) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (3) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.

(6) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.

(a) "Permanent center" means a center which meets the program standards approved by the State Board for Elementary and Secondary Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

(b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

(d) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and

shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.

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KRS 158.010 Uniform school system to be maintained; variations

(1) A uniform system of common schools shall be maintained in Kentucky.

(2) Local school districts may, with approval of local boards of education, provide special programs and services to one (1) or more areas of the district in contrast to other areas where the variation is a reasonable one based on an attempt to equalize the education progress of the students within the district.

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KRS 158.070 School term; holidays and days closed; continuing education for certain students

(1) The minimum school term shall be one hundred eighty-five (185) days, including at least one hundred seventy-five (175) instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the State Board for Elementary and Secondary Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for professional development and planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095 and 158.720. The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday. Each local board may use two (2) days for planning activities without the presence of pupils. Each local board may use the number of days deemed necessary for:

(a) National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

(b) Local disaster which would endanger the health or safety of children; and

(c) Mourning when so designated by the local board of education and approved by the State Board for Elementary and Secondary

Education upon recommendation of the chief state school officer.

(4) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(b) of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternative dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. The State Board for Elementary and Secondary Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts for the 1990-1991 and 1991-1992 school years for continuing education. These grants shall be allotted to school districts for the 1990-1991 and 1991-1992 school years for continuing education. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. The chief state school officer shall recommend to the Division of School Finance of the Office of Education Accountability by June 30, 1991, a method for funding continuing education for these students through the state-supported funding program.

(8) Notwithstanding any other statute, each school term shall include at least the minimum number of

instructional days required by this section.

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KRS 158.150 Suspension or expulsion of pupils

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property, or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but not later than three (3) school days after the suspension.

(3) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report such action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but such action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

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KRS 158.6451 Council on School Performance Standards; development of goals for commonwealth's schools; model curriculum framework

(1) Upon July 13, 1990, the Council on School Performance Standards established by Executive Order 89-151 shall be reconvened by the chairman to frame the following six (6) goals for the schools of the Commonwealth in measurable terms which define the outcomes expected of students:

(a) Schools shall expect a high level of achievement of all students.

(b) Schools shall develop their students' ability to:

1. Use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives;

2. Apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives;

3. Become a self-sufficient individual;

4. Become responsible members of a family, work group, or community, including demonstrating effectiveness in community service;

5. Think and solve problems in school situations and in a variety of situations they will encounter in life; and

6. Connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various media sources.

(c) Schools shall increase their students' rate of school attendance.

(d) Schools shall reduce their students' dropout and retention rates.

(e) Schools shall reduce physical and mental health barriers to learning.

(f) Schools shall be measured on the proportion of students who make a successful transition to work, post-secondary education, and the military.

(2) The Council on School Performance Standards shall employ necessary staff and shall be attached to the Department of Education for administrative purposes. Members of the council and its committees may receive reimbursement of actual expenses for attending meetings and may be reimbursed for other actual and necessary expenses incurred in the performance of their duties authorized by the council. The expenses shall be paid out of the appropriation for the council.

(3) The Council on School Performance Standards shall establish a number of committees with statewide representation of certified personnel to frame the goals in measurable terms which specify the expected outcomes. The council shall make periodic progress reports and a final report by December 1, 1991, to the Governor, the State Board for Elementary and Secondary Education, and the Legislative Research Commission. After submitting its final report the council shall cease to exist. The State Board for Elementary

and Secondary Education shall adopt the goals of the council.

(4) By July 1, 1993, the State Board for Elementary and Secondary Education shall disseminate to local school districts and schools a model curriculum framework which is directly tied to the goals, outcomes, and assessment strategies developed pursuant to this section and KRS 158.645 and 158.6453. The framework shall provide direction to local districts and schools as they develop their curriculum. The framework shall identify teaching and assessment strategies, instructional material resources, ideas on how to incorporate the resources of the community, a directory of model teaching sites, and alternative ways of using school time.

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KRS 160.160 Boards of education; powers and procedures; approval of Department of Education required for mortgages, leases

(1) Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(5), to be known as the "board of education of _____, Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold, and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vicechairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.

(2) No board of education shall participate in any financing of school buildings, school improvements, appurtenances thereto, or furnishing and equipment without:

(a) First establishing the cost of the project in advance of financing, based on the receipt of advertised, public, and competitive bids for such project, in accordance with KRS Chapter 424; and

(b) Establishing the cost of financing in advance of the sale of any bonds, certificates of participation in any leases, or other evidences of financial commitments issued by or on behalf of such board. Any bonds, leases, participations, or other financial arrangements shall not involve a final commitment of the board until

the purchaser or lender involved shall have been determined by public advertising in accordance with KRS Chapter 424.

(3) No board of education shall make a mortgage, lien, or other encumbrance, upon any school building owned by the board, or transfer title to any such school building as part of any financing arrangement, without the specific approval of the Department of Education, and without the transaction being entered into pursuant to a detailed plan or procedure specifically authorized by Kentucky statute.

(4) Without the approval of the Department of Education, no board may lease, as lessee, a building or public facility that has been or is to be financed at the request of the board or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the board, or by a leasing corporation. Any lease, participation, or other financial arrangement shall not involve a final commitment of the board unless and until the purchaser or lender involved in same shall have been determined by public advertising in accordance with KRS Chapter 424. No transaction shall be entered into by the board except upon the basis of public advertising and competitive bidding in accordance with KRS Chapter 424.

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KRS 160.290 General powers and duties of board

(1) Each board of education shall have general control and management of the public schools in its district and may establish schools and provide for courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the administrative regulations of the State Board for Elementary and Secondary Education. Each board shall have control and management of all school funds and all public school property of its district and may use its funds and property to promote public education. Each board shall exercise generally all powers prescribed by law in the administration of its public school system, appoint the superintendent of schools, and fix the compensation of employees.

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations, and bylaws for its meetings and proceedings for the management of the schools and school property of the district, for the transaction of its business, and for the qualification and duties of employees and the conduct of pupils. The rules, regulations, and bylaws made by a board of education shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of a majority of the members of the board. The rules, regulations, and bylaws shall be spread on the minutes of

the board and be open to the public.

(3) Local boards of education electing to enter into agreements pursuant to the Interlocal Cooperation Act, KRS 65.210 and 65.300, with other local boards of education to establish consortia to provide services in accordance with the Kentucky Education Reform Act of 1990, 1990 Ky.Acts ch. 476, may transfer real or personal property to the consortia without receiving fair market value compensation. The joint or cooperative action may employ employees transferred from employment of a local board of education, and the employees shall retain their eligibility for the Kentucky Teachers' Retirement System. The chief state school officer, under administrative regulations of the State Board for Elementary and Secondary Education, may allot funding to an interlocal cooperative board created by two (2) or more local school districts pursuant to KRS 65.210 to 65.300 to provide educational services for the mutual advantage of the students in the representative districts. All statutes and administrative regulations that apply to the use of these funds in local school districts shall also apply to cooperative board.

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KRS 160.295 Procedure for promulgation of code of student rights and responsibilities for secondary schools; prohibited student activities

(1) The board of education of each public school district in the Commonwealth may adopt and promulgate a code of student rights and responsibilities for secondary schools from recommendations of a committee composed of students, faculty, parents, and school district administrative personnel.

(2) Such committee shall consist of two (2) students, two (2) parents of students, two (2) faculty members, two (2) representatives from administrative personnel of the district, and one (1) member of the local school board.

(3) The student and faculty members of such committee shall be elected by their peers in the local school district; the administrative personnel shall be appointed by the school district superintendent, and the parents selected by the faculty and student body. Members of such committee shall serve for a term of one (1) year and may be reelected or reappointed in following years. Initial composition of the elected members of such committee shall be by the following:

(a) The district superintendent shall notify each school within the district, each school principal or head teacher, the students of the district, and the parents of students within the district as to the method for receiving nominations for membership on the committee and of the methods by which the election of members shall take place. Such notification shall take place on or before the first

day of school for each school term.

(b) Nominations for the student, faculty, and parent members of the committee shall be received in writing by the district superintendent within thirty (30) days following the commencement of each school term.

(c) The election of student, faculty, and parent members of the committee shall be held within fourteen (14) days following the closing of nominations under the supervision of the district superintendent.

(d) The initial meeting of the elected and appointed members shall be no later than fourteen (14) days following the election.

(4) Each committee member shall be entitled to a single vote and any code of students rights and responsibilities adopted by a majority of the committee membership shall be submitted to the district board of education which may cause such code, in whole or in part, to be implemented in the public schools of the district.

(5) All meetings of the committee shall be open to the public and the committee shall hold at least one (1) public hearing on the proposed code before it is adopted and submitted to the district board of education for implementation.

(6) The code of students rights and responsibilities adopted by the committee may define rights and responsibilities regarding, but not limited to, the following:

(a) Right of expression, including, but not limited to, appearance, assembly, association, and circulation of petitions and literature;

(b) Right to participate in decision-making procedures directly affecting students;

(c) Right to procedural due process concerning major disciplinary action, as defined by the code;

(d) Right to receive academic grades based only upon academic performance;

(e) Right to freedom from abuse and threat of abuse by members of school faculties and administration personnel; and

(f) Right of access by a student to his or her own records and guarantee of the confidentiality of a student's academic records outside of the school system, except upon written authorization of the student or his or her parents or guardians.

(7) Students shall refrain from activity which materially or substantially disrupts the educational process or presents a clear and present danger to the health and safety of persons or property, or infringes on the rights of others.

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KRS 160.340 Reports by boards to State Board for Elementary and Secondary Education; filing of policies on specific matters

(1) Each board of education shall, on the forms prepared by the chief state school officer and approved by the State Board for Elementary and Secondary Education, prepare and submit to the State Board for Elementary and Secondary Education reports of all

phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) Personnel policies that apply to certified employees, including fringe benefits, salary schedules, nonclassroom duties, in-service training, teacher-student ratio, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion, and demotion;

(f) Evaluation of certified employees;

(g) Selection of textbooks and instructional materials; and

(h) Expenditure and accounting for school funds, including all special funds.

(3) It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 and shall be public records.

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KRS 160.345 Required adoption of school councils for school-based decision making; composition of councils; responsibilities; exemption; discretionary fund

(1) The term "teacher" for the purpose of this section means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy shall also address and comply with the following:

(a) Each participating school shall form a school council which shall be composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be relatives of any employee of the school.

(b) The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be selected for one (1) year terms. The parent members shall be elected by the parent members of the parent teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. The principal or head teacher shall be the chair of the school council.

(c) The school council shall have the responsibility to set school policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

(d) All certified staff at a school may be participants in the school-based decision making. The staff shall divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, and special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) year. The committee shall submit its recommendations to the school council for consideration.

(e) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(f) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(g) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(h) The school council shall determine which instructional materials and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(i) From a list of applicants recommended by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council.

Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request.

(j) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal within the local school board's policy;

2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school;

4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal; and

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and accounting and auditing;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon a favorable vote of a majority of the faculty at the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the State Board for Elementary and Secondary Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall develop sample guidelines to assist local boards in the development of their policies, and the department shall provide professional development activities to assist schools in implementing school-based decision making.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the State Board for Elementary and Secondary Education for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council.

(9) There is hereby established a school council discretionary fund to be administered by the Department of Education and the department shall establish guidelines to be met to qualify for such funds. Each year that school councils are in existence the department shall distribute the funds appropriated to the fund to the schools participating in school-based decision making. The amount of funds received by each participating school shall be determined on a proportionate share basis by considering each participating school's total pupil enrollment. However, schools receiving funds from the Commonwealth school improvement fund under KRS 158.805 shall not be eligible to participate in this fund.

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KRS 160.370 Superintendent as executive agent of board; duties

The superintendent shall be the executive agent of the board that appoints him and shall meet with the board, except when his own tenure, salary, or the administration of his office is under consideration. As executive officer of the board, the superintendent shall see that the laws relating to the schools, the bylaws, rules, and regulations of the State Board for Elementary and Secondary Education, and the regulations and policies of the district board of education are carried into effect. He may administer the oath required by the board of education to any teacher or other person. He shall be the professional adviser of the board in all matters. He shall prepare, under the direction of the board, all rules, regulations, bylaws, and statements of policy for approval and adoption by the board. He shall have general supervision, subject to the control of the board of education, of the general conduct of the schools, the course of instruction, the discipline of pupils, and the management of business affairs. He shall be responsible for the hiring and dismissal of all personnel in the district.

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KRS 160.390 General duties as to condition of schools; responsibilities; reports

(1) The superintendent shall devote himself exclusively to his duties. He shall exercise general supervision of the schools of his district, examine their condition and progress, and keep himself informed of the progress in other districts. He shall prepare or have prepared all budgets, salary schedules, and reports required of his board by the State Board for Elementary and Secondary Education. He shall advise himself of the

need of extension of the school system of the district, shall receive and examine reports from teachers and other school officers, and shall make reports from time to time as required by the rules of his board or as directed by the board. He shall be responsible to the board for the general condition of the schools. He shall be responsible for all personnel actions including hiring, assignments, transfer, dismissal, suspension, reinstatement, promotion, and demotion and reporting the actions to the local board.

(2) All personnel actions by the superintendent as described in subsection (1) shall be recorded in the minutes of the local board of education at the next meeting after the action is taken and shall not be effective prior to receipt of written notice of the personnel action by the affected employee from the superintendent.

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702 KAR 3:240 School council funding formula

Section 1. Definitions.

(1) "Instructional supplies, materials and equipment" include the following codes, as set forth in the "Kentucky School Financial Accounting System" incorporated by reference in 702 KAR 3:120:

(a) Library books - Codes: 251.01, 251.04, 252.01, 252.04;

(b) Periodicals and newspapers - Codes: 253.01, 253.04, 254.01, 254.04;

(c) Library supplies - Codes: 255.01, 255.03, 256.01, 256.03;

(d) Audio visual material and equipment - Codes: 257.01, 257.04, 258.01, 258.04;

(e) Supplementary books - Codes: 263.01, 263.04, 264.01, 264.04;

(f) Teaching supplies to include paper products - Codes: 265.01, 265.02, 266.01, 266.02;

(g) Instructional equipment other than computer laboratories - Codes: 231, 741.01, 871.01, 1272; and

(h) Instructional travel (other than instructional personnel coded in Code 213) - Code: 267.

(2) Items not to be considered as an expenditure for the above purposes are technology related expenditures for computer laboratories and the initial inventory of a new school plant.

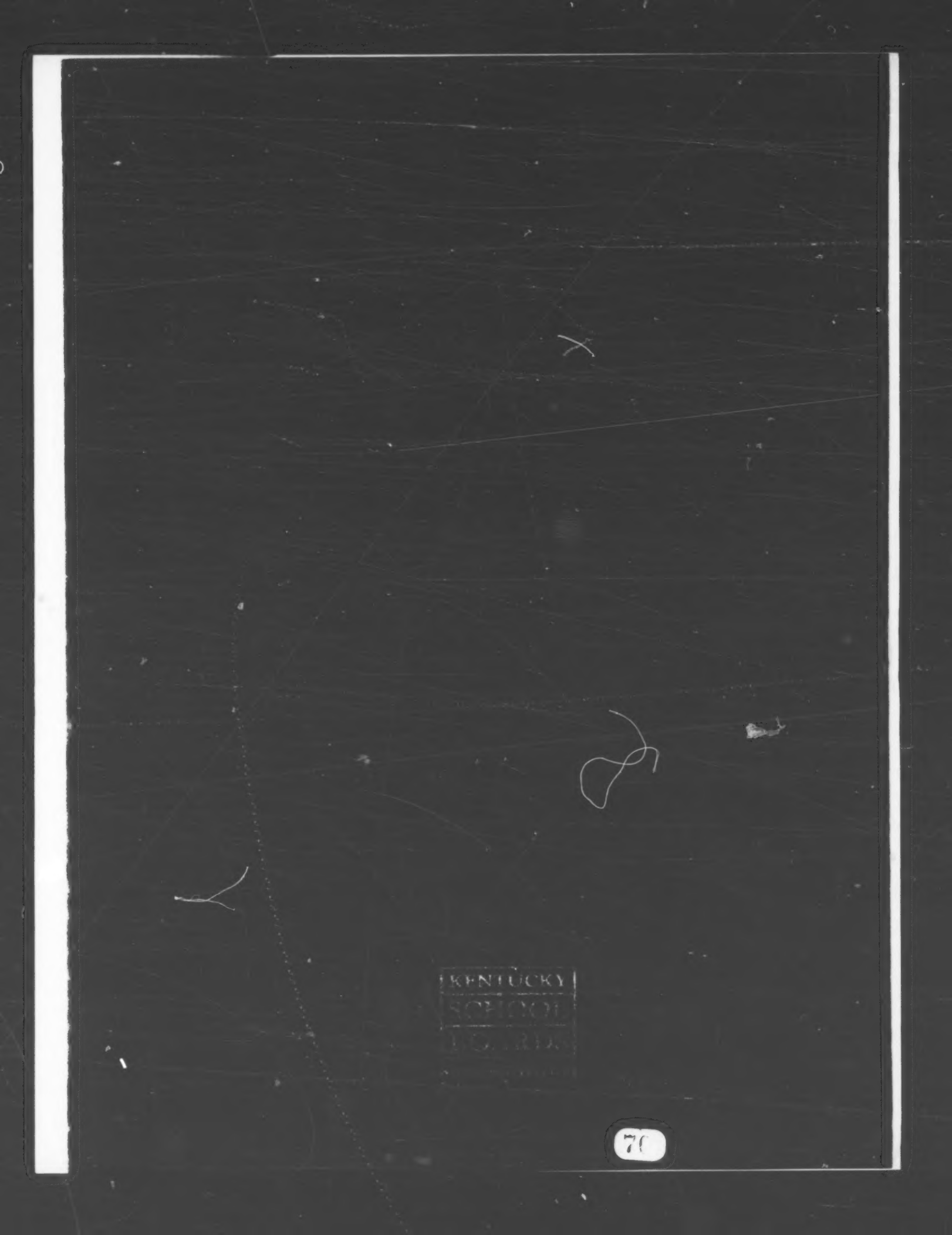
Section 2. The local school district board of education shall appropriate within the district budget in kindergarten through the twelfth grade an amount not less than seventy-five (75) dollars per child enrolled (except kindergarten which shall be based on full time equivalent enrollment), based upon previous end of year enrollment, in each school for the purposes of instructional materials, supplies and equipment. The school-based council shall determine the expenditure of these funds in each of the schools with councils.

Section 3. In schools where school-based councils do not exist, the central administration shall expend the seventy-five (75) dollars

required for each child enrolled.

Section 4. Effective with the effective date of this regulation, school-based councils, for purposes of determining expenditures, shall be operational on or before May 1 preceding the school year or by a date agreed upon between the local board of education and the school-based council.

Section 5. This regulation shall be effective July 1, 1991, except as specifically designated otherwise. (17 Ky.R. 2097; Am. 2704; eff. 3-13-91.)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